

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LISA BORRELLO,

Plaintiff,

v.

DECISION AND ORDER
00-CV-177A(S)

NEW YORK STATE DEPT. OF CORRECTIONAL
SERVICES ("DOCS"),
RONALD MOSCICKI,
MICHAEL MARSHALL,
RICHARD MOFFIT,
BRIAN McKENNA,
AMY FARNHAM,
DAWN RAYNOR,

Defendants.

Plaintiff, Lisa Borrello, an employee with the Department of Correctional Services ("DOCS") at Lakeview Shock Incarceration Correctional Facility ("Lakeview"), filed a complaint asserting claims against defendants under Title VII, 42 U.S.C. § 2000e et seq., 42 U.S.C. § 1983, 42 U.S.C. § 1985(3) and various other state law provisions. In her complaint, plaintiff alleges that she was sexually harassed and discriminated against based upon her gender while working as cook at

Lakeview. Specifically, plaintiff alleges that defendant McKenna, her supervisor at Lakeview, verbally harassed her, physically threatened her, and treated her less favorably than her male counterparts. Plaintiff alleges that she complained to defendants Marshall, Moffit and Moscicki, but that they failed to take steps to remedy the harassment. She also claims that the defendants retaliated against her after she complained of the discriminatory and harassing behavior. She alleges that defendants Farnham and Raynor participated in the harassing and retaliatory behavior.

This case was referred to Magistrate Judge Hugh B. Scott on May 31, 2000, pursuant to U.S.C. § 636(b)(1). The defendants all filed motions for summary judgment. See Dkt. Nos. 188, 189, 190, 196, 197, 204, 206 and 253. On March 21, 2006, Magistrate Judge Scott filed a report and recommendation recommending that the summary judgment motions of defendants Moffit, McKenna, Marshall, Moscicki and the New York State Department of Correctional Services (“DOCS”) be denied, but that the summary judgment motions of defendant Farnham. On March 30, 2006, Magistrate Judge Scott issued a report and recommendation recommending that defendant Raynor’s motion for summary judgment be granted.

Defendants Moffit, Marshall, Moscicki and DOCS objected to the recommendation that their summary judgment motions be denied.¹ Plaintiff objected to the recommendation that summary judgment be granted as to defendants Farnham and Raynor. Oral argument on the objections was held on September 15, 2006.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the report and recommendations to which objections have been made. Upon a de novo review, and after reviewing the submissions and hearing argument from the parties, the Court hereby adopts Magistrate Judge recommendation to deny summary judgment as to defendants Moffit, McKenna, Marshall, Moscicki and DOCS, and grant summary judgment as to defendants Raynor and Farnham. Accordingly, for the reasons stated by Magistrate Judge Scott in his report and recommendation dated March 21, 2006 and his report and recommendation date March 30, 2006, summary judgement is denied as to defendants Moffit, McKenna, Marshall, Moscicki and DOCS, and granted as to defendants Farnham and Raynor.

¹ Defendant McKenna did not object to the Report and Recommendation.

IT IS SO ORDERED.

/s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: September 28, 2006

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